

MPAAA - Spring Conference 2002

Students Who are Not U.S. Citizens

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NonImmigrant Classifications

- C A nonimmigrant is someone admitted to the U.S. **temporarily** for a **specific purpose**.
- C The **length of stay varies** from months to years.
- C Aliens in these classifications are usually in possession of **Form I-94, Arrival - Departure Record**, containing their name, date & place of birth, and an admission stamp showing port of entry, the date of entry, the visa classification, and the length of admission.
- C **Visas** in this group include such categories as...
 - “B-2 Visitor”
 - “F-1 Student”
 - “J-1 Exchange Visitor”and other various classifications of workers, entertainers & athletes, representatives of foreign government, employees of international organizations, etc., and their spouses and children.

J-1 “Foreign Exchange Students”

- C ...are considered **residents** of the district in which their host family resides.
- C ...**cannot** be charged tuition!
- C ...are counted in membership as resident pupils; **state aid will be paid**.

F-1 “Student”

- C ...has provided **proof of paid tuition** (amount equal to the unsubsidized per capita cost of the education) in order to be given the visa.
- C ...may enroll in the public **high school** but may NOT enroll in a public elementary school or publicly funded adult education program.
- C ...for state aid purposes, is considered a **resident** of the district in which they are staying and **will generate state aid**.
- C The district should have filed **Form I-17**, Petition for Approval of School for Attendance by Nonimmigrant Students, to seek INS approval of the school for attendance by foreign nationals; and should issue **Form I-20**, Certificate of Eligibility for Nonimmigrant Student Status, to the students it has accepted for attendance. These forms pertain specifically to F-1 visa students.

All other NonImmigrants

- C ...**are entitled to be enrolled** in the district in which they are determined to be “in residence” as long as age requirements are met and a high school diploma has not been obtained.

NOTE: A **high school diploma** or its equivalent (e.g., a secondary school completion certificate) is considered a high school diploma regardless of the country in which it was obtained. Individuals with a high school diploma may NOT be counted in membership for state aid purposes.

C “**Residency**” should be determined *as it is for any child*, using the same criteria as is used for any pupil.

IF the pupil’s **parent or parents** (or the pupil, if at least 18 years old) are residing within the district boundaries, the pupil is considered a **resident**.

IF the pupil is residing with extended family or relatives or a host family within the district boundaries **for purposes of a suitable home**, the pupil is considered a **resident**.

IF the pupil has moved into the district **for educational purposes** and is NOT with his or her parents, the pupil is **NOT considered a resident** for state aid purposes. Enrollment may be denied.

IF it is determined that the pupil is actually a resident of another district, the pupil should be treated like any other nonresident. That is, enrollment may be denied OR the pupil may be enrolled and tuition charged OR a “release” may be obtained from the resident district and the pupil counted in membership OR the pupil may be enrolled and counted in membership under Schools of Choice provisions, etc.

C The anticipated **length of stay** in the district **should NOT be a factor** in the enrollment decision.

Immigrants

C People admitted to the U.S. as immigrants are “**lawful permanent residents**.”

C They are usually in possession of an Alien Registration Card, **Form I-551**, commonly referred to as a “green card.”

C Immigrants **are entitled to be enrolled** in the district in which they are determined to be “in residence” as long as age requirements are met and a high school diploma has not been obtained.

NOTE: A high school diploma or its equivalent (e.g., a secondary school completion certificate) is considered a high school diploma regardless of the country in which it was obtained. Individuals with a high school diploma may NOT be counted in membership for state aid purposes.

C “**Residency**” should be determined *as it is for any child*, using the same criteria as is used for any pupil.

Update:

INS has proposed significant changes to rules governing visitors and students. (See related “Fact Sheet” handout.) Please note that these are *proposals*. Revised rules could be issued as early as mid-2002.

MDE Recommendations:

- C **Enroll all age-eligible children** residing in the district. When in doubt, enroll the child.
- C In making enrollment decisions, **concentrate on the basic criteria** (age, residency, no high school diploma) rather than on the citizenship of the child. **All of these pupils are state aid eligible** if they meet the basic enrollment criteria.
- C For **questions and concerns** about visas, expired visas, lack of visas, etc., contact your **legal counsel** and/or the **U.S. Immigration and Naturalization Service**. The INS website (www.ins.gov) is *extremely* helpful and informative.